

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

ELTON RAY CROSS  
TX-1330471-R

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DOCKETED COMPLAINT NO.  
08-088

**AGREED FINAL ORDER**

On this the 21<sup>st</sup> day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Elton Ray Cross (Respondent).

In order to conclude this matter Elton Ray Cross neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Elton Ray Cross is a Texas state certified residential real estate appraiser, holds certification number TX-1330471-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about February 7<sup>th</sup>, 2006, Respondent appraised real property located at 107 Heard Street, McKinney, Texas ("the property").
3. On or about January 15<sup>th</sup>, 2008, the Complainant, Dr. Victor Isaac, filed a complaint with the Board, alleging various deficiencies in connection with Respondent's appraisal of the property.
4. On or about January 25<sup>th</sup>, 2008 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent violated USPAP's Competency Rule. The property was zoned "BN" (Neighborhood Business District) and the appraiser failed to state his lack of competency or certification to analyze the potential commercial use of the property;
- b) Respondent failed to adequately identify and report the correct site description, including zoning, and the improvements description for the property;
- c) Respondent failed to consider and report leases for the property correctly. The current listing indicated the property had monthly rent of \$650, but Respondent stated it was \$625 in his report;
- d) Respondent failed to develop an opinion of highest and best use. Respondent failed to analyze the property's BN zoning and the commercial development of the site or the assemblage of the site;
- e) Respondent misrepresented that there were no recent land sales even though there were three reported sales of similar lots in that area located in the MLS which sold for roughly double his site value determination. As such, Respondent did not employ recognized methods and techniques correctly in his cost approach;
- f) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and generally did not employ recognized methods and techniques in his sales comparison approach;
- g) Respondent failed to collect, verify, analyze and reconcile comparable rental data and comparable operating expenses for the property;
- h) Respondent failed to collect, verify, analyze and reconcile comparable operating expenses and comparable data to estimate capitalization and/or discount rates;
- i) Respondent failed to base his projections of future rent or income potential and expenses on reasonable, clear and appropriate evidence and generally did not employ recognized methods and techniques correctly in his income approach;
- j) Respondent failed to disclose and analyze the active listing history of the property, claiming that the property was not listed in MLS even though it was; and,
- k) Respondent's report for the property contains substantial errors of omission and commission as detailed above which resulted in a misleading appraisal report for the property which was not credible.

## **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Competency Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(viii); 1-4(c)(ii) & 2-2(b)(viii); 1-4(c)(iii) & 2-2(b)(viii); 1-4(c)(iv) & 2-2(b)(viii); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for eighteen months with that suspension being fully probated under the under the following conditions:
  - i. During the entire eighteen month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request;
  - ii. Respondent shall timely complete all of the remedial coursework required in this Order;
  - iii. Respondent shall sponsor no new trainees during the entire period of probation;
- b. Pay to the Board an administrative penalty of \$1,500.00;
- c. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- d. Attend and complete a minimum, 15 classroom-hour course in Appraising Small Income Producing Properties;
- e. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; and,
- f. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.


Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including but not limited to revocation of the above-noted probation.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

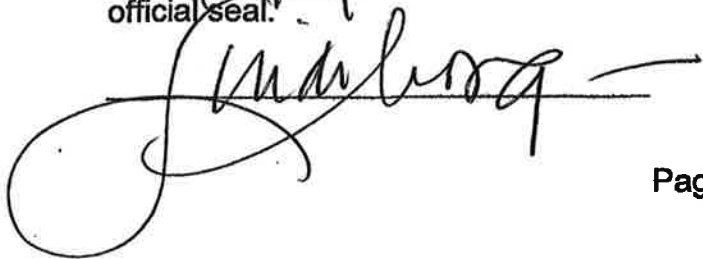
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 11 day of August, 2009.

  
ELTON RAY CROSS

  
TED WHITMER, ATTORNEY FOR  
RESPONDENT

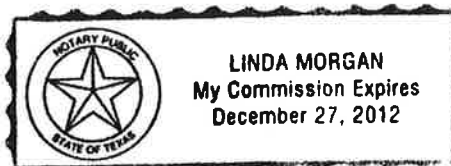
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 11 day of August, 2009, by ELTON RAY CROSS, to certify which, witness my hand and official seal.



Notary Public Signature

LINDA MORGAN

Notary Public's Printed Name



Signed by the Commissioner this 21<sup>st</sup> day of August, 2009.

A handwritten signature in dark ink, appearing to be "Loretta DeHay", written over a horizontal line.

Loretta DeHay, Interim Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21<sup>st</sup> day of August, 2009.

A handwritten signature in dark ink, appearing to be "Clinton P. Sayers", written over a horizontal line.

Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board